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SCHT-215 (10105731)

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Eileen Sheffield 1/21/05
Eileen Sheffield Date January 21, 2005

SCHT-215 (10105731)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)/Appellant : Taplan
Serial No. : 09/935,702
Filed : August 21, 2001
For : GLASS OR GLASS CERAMIC PLATE WITH A SAFE
EDGE AND METHOD FOR THE MANUFACTURE
THEREOF
Art Unit : 3742
Examiner : S.Y. Paik

January 21, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
MS: Appeal Brief

APPEAL BRIEF

S I R:

Appellant submits this Brief on Appeal in triplicate. A check to cover the appropriate fee was previously provided. Authorization is given to charge any and all required fees to deposit account no. 50-0624.

(1) **REAL PARTY IN INTEREST**

The real party in interest is the assignee, Schott Glas.

(2) **RELATED APPEALS AND INTERFERENCES**

There are no known related appeals or interferences.

(3) **STATUS OF CLAIMS**

Claims 1-14, 17, 24-28 are canceled.

Claims 15, 16, 18-23 and 29-38 were finally rejected.

(4) **STATUS OF AMENDMENTS**

All amendments except for the amendment of January 20, 2005, will be entered for this Appeal. It is believed that the amendment of January 20, 2005 will be entered.

(5) **SUMMARY OF THE CLAIMED SUBJECT MATTER**

A plate (1) for a kitchen appliance is made of a glass and having an upper side (2) and a lower side (3), the plate having a safe edge formed by a cross-sectional profiled portion (5) thicker than the thickness (D) of the plate (1), which merges integrally and seamlessly with the plate (1) and is upset or shaped on the plate (1). The plate is made of glass or glass ceramic.

As taught at page 1, third paragraph, of the instant specification, glass and glass ceramic plates require a safety edging to protect sharp edges and to enable the plate to be held in a tension-free manner. It is an object of the presently claimed invention to provide a glass or glass ceramic plate in which the safe edge is improved and simplified. As mentioned at page 8, a glass plate according to the invention may be prepared by rolling a glass plate flat and appropriately shaping it, and then it may be heated in the green state and shaped in the marginal area with a shaping tool so as to form the profiled portion.

(6) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether the Examiner erred in finally rejecting pending claims 15, 16, 18-23 and 29-38 under 35 U.S.C. §103(a) as allegedly obvious over GB 2,099,137 (Colvin) in view of U.S. Patent No. 4,960,978 to Lorenz.

(7) ARGUMENT

The legal determination under section 103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In re O'Farrell, 853 F.2d 894, 902, 7 USPQ2d 1673,1680 (Fed. Cir. 1988).

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. ACS Hosp. Systems, Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984).

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992).

Claims 15 and 29

Colvin pertains to a hot plate consisting of a cast iron substrate having on its upper surface a vitreous enamel casting. This cast iron substrate has a peripheral rim 16 to overcome problems with fat seepage. Colvin does not suggest to include a safety edge formed integrally with the plate or with a glass or glass ceramic plate. Furthermore, in Colvin, a safety edge is not a problem since the hot plate is formed out of cast iron so that there are no difficulties with the

outer edge because the impact strength or the resistance to impact of cast iron is much higher than of glass or glass ceramics.

Lorenz discloses an electric cooking appliance with a sheet steel, glass, ceramic or glass ceramic carrier plate. Lorenz does not pertain to the problems with the edges of a glass, ceramic or glass ceramic carrier plate, nor does Lorenz disclose that such edges have to be stable and protected. Further, Lorenz only discloses several possibilities for the mounting of such glass ceramic plate but does not address the problems with the edges of such glass or glass ceramic plates. As is apparent from the Figs. 4 to 7, the glass ceramic plates according to Lorenz still have sharp edges; therefore, Lorenz has not addressed the problem solved in accordance with the present invention.

Application of Lorenz for its disclosure of the use of glass or glass ceramic to Colvin violates In re Fritch because Colvin clearly teaches away from the use of ceramics as heater panels in Col. 1, lines 5-11 based on the tendency to crack and become brittle as set forth in those paragraphs, so there would be no suggestion to use such materials as does the presently claimed invention. It seems appropriate to conclude that Colvin would lead one skilled in the art away from the use of glass as well, based on the teachings of brittleness and cracking of ceramics when used as heater panels (hot plates).

A person skilled in the art trying to solve the problem that the edges of a glass or glass ceramic plate should be simplified but have a high impact strength is not taught by Colvin nor by Lorenz to form a safety edge as claimed.

In summary, neither Colvin nor Lorenz teach or suggest providing a safety edge formed by a cross-sectional profiled portion thicker than the thickness of a plate made of glass or glass ceramic as presently claimed.

Claim 16

Further to the above, with respect to claim 16, it is not believed that the asserted combination of references teaches or suggests that a profiled portion projects in at least one direction selected from the group consisting of above the upper side and below the bottom side of the plate, and for reasons set forth *supra*.

Claims 18 and 31

With respect to claims 18 and 31, it is respectfully submitted that the asserted combination of references does not teach or suggest a plate having an upper side that differs in partial areas from a planar shape and for reasons set forth with respect to claims 15 and 29.

Claims 19 and 32

As to claims 19 and 32, the combination of Colvin and Lorenz does not teach or suggest the profiled portion is a holding zone for the mounting of the plate and for reasons set forth with respect to claims 15 and 29.

Claims 20 and 33

Furthermore, the combination of prior art references does not disclose a plate having a profiled portion that is rounded at its edge as set forth in claims 20 and 33 and for reasons set forth with respect to claims 15 and 29.

Claims 21 and 34

With respect to claims 21 and 34, the asserted combination of references does not teach or suggest that the profiled portion of the plate runs around the plate as claimed, and for reasons set forth with respect to claims 15 and 29.

Claims 22 and 35

The specific embodiment of claims 22 and 35, is likewise not taught or suggested by the asserted combination of references, i.e., a plate wherein the profiled portion is rounded at the corners of the plate, and for reasons set forth with respect to claims 15 and 29.

Claims 23 and 36

As to claims 23 and 36 there is not believed to be any hint or suggestion in the asserted combination of references that the profiled portion is elevated by a height over the flat upper side of the plate such that a catchment for liquid is formed, and for reasons set forth with respect to claims 15 and 29.

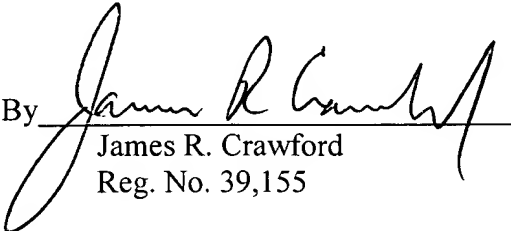
Claims 37 and 38

Furthermore, with respect to claims 37 and 38, there is no hint or suggestion that a plate as claimed should consist of glass or glass ceramic as claimed, since Colvin discloses that metal should be used rather than glass or glass ceramic, and for reasons set forth with respect to claims 15 and 29.

Appellant respectfully requests reversal of the rejection of all claims and allowance thereof.

Respectfully submitted,

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CLAIMS APPENDIX

1-14 (canceled)

15. A plate for a kitchen appliance comprising a glass and having an upper side and a lower side, the plate having a safe edge formed by a cross-sectional profiled portion thicker than the thickness of the plate, which merges integrally and seamlessly with the plate and is upset or shaped on the plate.

16. A plate according to claim 15, wherein the profiled portion projects in at least one direction selected from the group consisting of above the upper side and below the bottom side of the plate.

17. (Canceled)

18. A plate according to claim 15, wherein the upper side differs in partial areas from a planar shape.

19. A plate according to claim 15, wherein the profiled portion is a holding zone for the mounting of the plate.

20. A plate according to claim 15, wherein the profiled portion is rounded at its edge.

21. A plate according to claim 15, wherein the profiled portion runs around the plate.

22. A plate according to claim 15, wherein the profiled portion is rounded at the corners of the plate.

23. A plate according to claim 17, wherein the profiled portion is elevated by a height over the flat upper side of the plate such that a catchment for liquid is formed.

24-28 (canceled)

29. A plate for a kitchen appliance comprising a glass ceramic and having an upper side and a lower side, the plate having a safe edge formed by a cross-sectional profiled portion

thicker than the thickness of the plate, which merges integrally and seamlessly with the plate and is upset or shaped on the plate.

30. A plate according to claim 29, wherein the profiled portion projects in at least one direction selected from the group consisting of above the upper side and below the bottom side of the plate.

31. A plate according to claim 29, wherein the upper side differs in partial areas from a planar shape.

32. A plate according to claim 29, wherein the profiled portion is a holding zone for the mounting of the plate.

33. A plate according to claim 29, wherein the profiled portion is rounded at its edge.

34. A plate according to claim 29, wherein the profiled portion runs around the plate.

35. A plate according to claim 29, wherein the profiled portion is rounded at the corners of the plate.

36. A plate according to claim 37, wherein the profiled portion is elevated by a height over the flat upper side of the plate such that a catchment for liquid is formed.

37. A plate consisting of glass and having an upper side and a lower side, the plate having a safe edge formed by a cross-sectional profiled portion thicker than the thickness of the plate, which merges integrally and seamlessly with the plate and is upset or shaped on the plate.

38. A plate consisting of glass ceramic and having an upper side and a lower side, the plate having a safe edge formed by a cross-sectional profiled portion thicker than the thickness of the plate, which merges integrally and seamlessly with the plate and is upset or shaped on the plate.